

## **COMMUNITY AFFAIRS**

### **Division Of Codes And Standards**

#### **Uniform Construction Code**

#### **Proposed Amendments: N.J.A.C. 5:23-2.15, 2.16, 2.30 and 2.31**

Authorized By: Susan Bass Levin, Commissioner, Department of Community Affairs

Authority: N.J.S.A. 52:27D-124 and N.J.S.A. 52:27D-198

Proposal Number:

Calendar: See Summary below for explanation of exception to calendar requirement.

Submit written comments by: November 17, 2006 to:

Michael L. Ticktin, Esq.  
Chief, Legislative Analysis  
Department of Community Affairs  
PO Box 802  
Trenton, NJ 08625-0802  
Fax Number: (609) 633-6729  
E-mail: mticktin@dca.state.nj.us

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**Susan Bass Levin**  
**Commissioner**

The agency proposal follows:

#### **Summary**

The proposed amendment to N.J.A.C. 5:23-2.15(e)1ix eliminates the provision that in order to obtain an exemption from the requirement for signed and sealed plans, homeowners are not only required to draw their own plans, but are also required to construct their own homes. This amendment will allow homeowners to draw their own plans and hire a builder to construct the home.

The proposed amendment to N.J.A.C. 5:23-2.15(e)4i(4) affects plans submitted for local review that are required to be reviewed by the New Jersey Department of Community Affairs (DCA). The proposed amendment requires the local enforcing agency to notify the owner or agent, in writing, no more than three business days after the submission of plans if the plans need to be reviewed by the department.

The proposed amendment to N.J.A.C. 5:23-2.16(a)2 affects the amount of time a

construction official has to issue a permit once the DCA has released the plans. Currently, the Uniform Construction Code sets a time limit for issuing a permit when there are released prototype plans but there is no time limit for action on other permit applications accompanied by plans released by the DCA. This proposed amendment requires the local enforcing agency to act on a completed application within five business days for any plan that has been reviewed and released by the Department.

The proposed amendments to N.J.A.C. 5:23-2.30 clarify the roles of the construction official and subcode officials pertaining to the issuance of violation notices, orders, and penalties. These amendments clarify the assignment of the construction and subcode officials' roles as to who may sign the appropriate notices. This amendment would ensure that the signatures currently required on Form F211 and F212 are accurately accounted for in the rules.

The amendment to N.J.A.C. 5:23- 2.31 removes language that is unnecessary regarding the issuing of violations and notices.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The Department does not anticipate the proposed amendments would have any social impact.

#### **Economic Impact**

The Department does not anticipate that the proposed amendments would have an economic impact on homeowners, municipalities, or the construction industry.

#### **Federal Standards Statement**

No Federal standards analysis is required because the amendments are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

#### **Jobs Impact**

The Department anticipates that construction jobs could be created a result of the proposed amendments at N.J.A.C. 5:23-2.15(e)1ix. Homeowners who design their own homes will now be permitted to hire building contractors to construct their homes.

#### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments will have any impact on the agricultural industry.

#### **Regulatory Flexibility Analysis**

The Department expects that these proposed amendments will not impose any recordkeeping, reporting or compliance requirements on "small businesses," as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

### Smart Growth Impact

The Department does not expect that the proposed amendments would have any impact upon either the achievement of "smart growth" or the implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### **5:23-2.15 Construction permits--application**

(a) – (d) (No change.)

(e) Plans, plan review, plan release:

1. Plans and specifications: The application for the permit shall be accompanied by no fewer than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. Plans submitted shall be required to show only such detail and include only such information as shall be necessary to demonstrate compliance with the requirements of the code and these regulations or to facilitate inspections for code conformity. When quality of materials is essential for conformity to the regulations, specific information shall be given to establish such quality; and this code shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information.

i. - viii. (No change.)

ix. Architect's or engineer's seal: The seal and signature of the registered architect or licensed engineer who prepared the plans shall be affixed to each sheet of each copy of the plans submitted and on the first or title sheet of the specifications and any additional supportive information submitted. The construction official shall waive the requirement for sealed plans in the case of a single family home owner who had prepared his own plans for the construction, alteration or repair of a structure used or intended to be used exclusively as his private residence [, and to be constructed by himself,] providing that the owner shall submit an affidavit attesting to the fact that he has prepared the plans and provided further that said plans are in the opinion of the construction official, and appropriate subcode official, legible and complete for purposes of ensuring compliance with the regulations.

x. - xii. (No change.)

2. – 3. (No change.)

4. Plan review:

i. Department review: When a review and release of plans by the Department is required pursuant to N.J.A.C. 5:23-3.11 or requested for a prototype plan intended for use Statewide, the owner or agent of the owner shall file an application for construction plan release for each project, along with three sets of plans, specifications and such other supporting information as the Department may require on forms obtained from the Department. The plans, specifications and other supporting information shall conform to the requirements of (e) above.

(1) – (3) (No change.)

(4) Construction permits: Owners and their agents shall not apply to a local enforcing agency for a construction permit for any building or structure for which a department plan review and release is required by N.J.A.C. 5:23-3, unless such review and release has been applied for and received by the applicant as evidenced by presentation of released plans to the local enforcing agency.

**(A) When plans are submitted for local review that are required to be reviewed by the Department, the local enforcing agency shall so notify the owner or agent in writing no later than three business days after the submission of the plans.**

ii. – vii. (No change.)

#### **5:23-2.16 Construction permits--procedure**

(a) Action on application: The construction official or the appropriate subcode official in the case of construction involving only one trade or subcode, shall examine or cause to be examined all applications for permits and amendments thereto, and approve or deny in whole or in part the application, within 20 business days. If the application is denied in whole or in part, the enforcing agency shall set forth the reasons therefore in writing. If an enforcing agency fails to grant, in whole or in part, or deny an application within 20 business days, such failure shall be deemed a denial of the application for purposes of an appeal to the Construction Board of Appeals, unless such period of time has been extended with the consent of the applicant. Whenever plans have been rejected and are thereafter revised and resubmitted, the revised plans shall be released if the deficiencies that were stated as grounds for rejection have been corrected and code compliance has been demonstrated. In that case, a written notice of release shall be given to the applicant not later than seven business days after the resubmission of the revised plans. When the grounds for rejection have not been corrected or when code compliance has not been demonstrated, a written notice of rejection stating the grounds for rejection shall be given to the applicant not later than seven business days after the resubmission of the revised plans.

1. (No change.)

2. Exception: For a building designed in conformance with the building subcode, where the Department or local enforcing agency has released a [prototype] plan which is to be used for the work covered by the permit application, **provided that the permit is complete,** the construction official shall act on the application within [seven] **five** business days.

(b) – (k) (No change.)

#### **5:23-2.30 Violation, notice and orders**

(a) Whenever the construction official or the appropriate subcode official shall determine that there exists a violation of the provisions of the regulations or where there exists a violation of a permit or certificate issued under the regulations, the [construction] **appropriate subcode** official shall issue a notice of violation and orders to terminate directing the discontinuance of the illegal action or condition and the correction of the violation.

(b) The notice and orders shall contain at least the following information:

1. The name and address of the owner; the address at which the violation occurred; the name and address of the person to whom the order is directed, and if it be other than the owner, a copy shall be delivered to the owner or his agent stating that the owner bears joint responsibility for bringing about compliance with the person named and that if a penalty is imposed, the enforcing agency will not issue a certificate of occupancy until such penalty has been paid; the permit number, a citation to the sections of the regulations violated; an order to terminate violations within a time specified in the order; the amount of penalty assessed, if any, and if cumulative, an explanation of the method of computation; and shall be signed by the appropriate subcode official [and] **or** the construction official.

2. Unless an immediate hazard to health and safety is posed, the construction **official or appropriate subcode** official shall permit such time period for correction as is reasonable within the context of the situation.

(c) Extensions: The construction official may grant extensions of time whenever he shall determine that despite diligent effort, compliance cannot be accomplished within the time specified in the notice. If, however, such extension shall be for a period in excess of three business days, or if more than one extension of less than three business days is sought, the construction official shall require a written application of extension stating the need, upon which he shall rule in writing, and which shall be made a part of the permanent file of the project.

#### **5:23-2.31 Compliance**

(a) (No change.)

(b) Penalties;

1. – 4.(No change.)

5. The construction official may separately serve a notice of penalty assessment and order to pay a penalty [, whenever he shall not have done so in the original notice and orders].

6. (No change.)